

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA  
Montana Fourth Judicial District Court, County of Missoula

STATE OF MONTANA,	)	
	)	
Plaintiff,	)	
	)	CAUSE NO. DC-10-272
-vs-	)	
	)	DECISION
GERALD WAYNE FREY,	)	
	)	
Defendant.	)	

On June 27, 2017, the District Court revoked Defendant's suspended sentence due to probation violations and sentenced him to the Department of Corrections for five (5) years, none suspended, for the offense of Driving Under the Influence of Alcohol – 4<sup>th</sup> or Subsequent Offense, a felony. The Def. was given credit for 61 days of time served. The terms and conditions imposed in the written Judgment of January 14, 2013 were re-imposed.

On February 23, 2018, Defendant's Application for review of that sentence was heard by the Sentence Review Division of the Montana Supreme Court (hereafter "the Division"). Defendant appeared by videoconferencing from the Crossroads Correctional Center and was represented by Brent Getty of the Office of the State Public Defender. The State was not represented.

Before hearing the Application, Defendant was advised that the Division has the authority not only to reduce the sentence or affirm it, but also increase it. Defendant was further advised that there is no appeal from a decision of the Division. Defendant acknowledged that he understood this and stated that he wished to proceed.

Rule 12, Rules of the Sentence Review Division of the Supreme Court of Montana, provides that, "The sentence imposed by the District Court is presumed correct. The sentence shall not be reduced or increased unless it is clearly inadequate or clearly excessive." (Section 46-18-904(3), MCA).

The Division finds that the reasons advanced for modification are insufficient to hold that the sentence imposed by the District Court is clearly inadequate or clearly excessive.

Therefore, it is the unanimous decision of the Division that the sentence is **AFFIRMED**.

Done in open Court this 23<sup>rd</sup> day of February, 2018.

DATED this 9<sup>th</sup> day of March, 2018.

SENTENCE REVIEW DIVISION

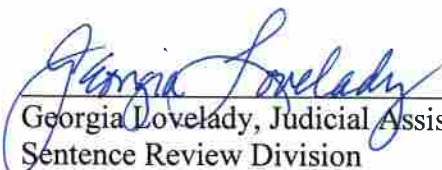
  
Hon. Kathy Seeley, Chairperson

  
Hon. Brenda Gilbert, Member

  
Hon. Dan Wilson, Member

Copies mailed this 13<sup>th</sup> day  
of March, 2018, to:

Clerk of District Court (Original)  
Gerald Wayne Frey #32325, Defendant (2)  
Hon. Karen Townsend  
Brent Getty, Defense Counsel  
Brooke W. Lansbury, Esq.  
Board of Pardons and Parole  
MSP - Records Dept.

  
Georgia Lovelady, Judicial Assistant  
Sentence Review Division